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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/551,188	04/17/2000	Axel Ullrich	7683-165	1301

7590 02/19/2004  
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EXAMINER

O HARA, EILEEN B

ART UNIT PAPER NUMBER

1646

DATE MAILED: 02/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/551,188	<b>Applicant(s)</b> ULLRICH ET AL.	
	<b>Examiner</b> Eileen O'Hara	<b>Art Unit</b> 1646	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 78-87 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 81-84, 86 and 87 is/are allowed.
- 6) ☒ Claim(s) 78-80 and 85 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 64-87 are pending in the instant application. Claims 1-63 have been canceled and claims 64-87 have been added as requested by Applicant in the Paper filed Nov. 6, 2003.

All claims are currently under examination.

### ***Objections to Specification***

2. The objections to the specification for the priority statement in the first line, for sequence compliance, for informalities in the disclosure and for the drawings are withdrawn in view of Applicants' amendment.

### ***Withdrawn Objections and Rejections***

3. Any objection or rejection of record which is not expressly repeated in this action has been overcome by Applicant's response and withdrawn.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 78-80 and 85 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 78-80 and 85 are indefinite because claims 78 and 85 encompass a method for identifying an antagonist of MCK-10, wherein the steps include determining if the test

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compound binds to the MCK-10, and also determining the activity of the MCK-10 upon binding the test compound, and wherein the test compound *thereby* reduces or inhibits the activity of the MCK-10 protein, so that there are actually two different methods encompassed by the claims.

The rejection would be overcome by deleting the word “thereby” on line 7 of the claims.

5. The art considered pertinent to the present application is: Roussidis et al., Inhibition of receptor tyrosine kinase-based signal transduction as specific target for cancer treatment. IN VIVO, (2002 Nov-Dec) 16 (6) 459-69, Traxler P. Tyrosine kinase inhibitors in cancer treatment (Part II). Expert Opinion on Therapeutic Patents, (1998) 8/12 (1599-1625), Traxler P.M. Protein tyrosine kinase inhibitors in cancer treatment. Expert Opinion on Therapeutic Patents, (1997) 7/6 (571-588), Fry D.W. Protein tyrosine kinases as therapeutic targets in cancer chemotherapy and recent advances in the development of new inhibitors. Expert Opinion on Investigational Drugs, (1994) 3/6 (577-595), which teach that receptor tyrosine kinases are important targets for developing drugs for cancer treatment.

### ***Conclusion***

6.1 Claims 81-84 and 86-87 are allowed.

6.2 Claims 78-80 and 85 are rejected.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eileen B. O'Hara, whose telephone number is (571) 272-0878. The examiner can normally be reached on Monday through Friday from 10:00 AM to 6:30 PM.

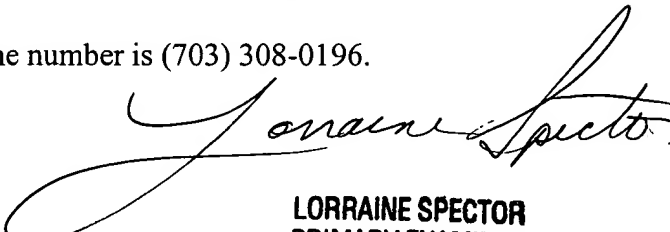
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler can be reached at (571) 272-0871.

Official papers Before Final filed by RightFax should be directed to (703) 872-9306.

Official papers After Final filed by RightFax should be directed to (703) 872-9307.

Official papers filed by fax should be directed to (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.



**LORRAINE SPECTOR**  
**PRIMARY EXAMINER**

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Eileen B. O'Hara, Ph.D.

Patent Examiner